

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-6, 8-15, 17-20 and 38 are pending in the application, with claims 1, 11, 20 and 38 being the independent claims. Claims 24 and 37 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein, and new claim 38 is sought to be added. Claims 1, 5, 11-15, 17, 18 and 20 are amended herein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112

Claims 5, 6, 13-15 and 24 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, claims 5, 13 and 14 were rejected because the term "said throat" lack antecedent basis and claim 24 was rejected as defining the article in reference to a human which is undefined.

Claims 5, 13 and 14, along with claim 12, have been amended to make the term "throat" an introductory term instead of an antecedent term, and claim 24 has been cancelled.

In light of these amendments, Applicants respectfully request the withdrawal of these 35 U.S.C. § 112 rejections.

Rejections under 35 U.S.C. § 102

Claims 20, 24 and 37 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,015,251 to Cherubini. The Cherubini reference discloses a medical fastener strap. According to the background section, a medical strap of this kind may be used “as anchoring devices for catheters, supporting limbs at elevated positions, EKG straps, I.V. tubes, slings, restraints, cable supports or the like.” Col. 1, lines 12-16. Based on the above description, Applicants disagree with the Examiner’s characterization of the medical strap described in the Cherubini reference as an “article of clothing.” None of the above listed uses of the medical strap described in the Cherubini references is an “article of clothing,” under the conventional use of the term.

Further, Applicants have amended claim 20 to incorporate the features of claim 37, i.e., to recite that the hook and pile material is a single-ply material. The Cherubini reference particularly recites that the medical strap comprises “a first elongated stiff strip 11 extending along the elongated axis of the strap and a second elongated strip 12 forming a backing for the strip 11 and joined thereto by a suitable adhesive stitching or other fastening means.” Col. 2, lines 31-35. Thus, the first and second strips of the medical strap of the Cherubini reference define at least a two-ply material and not the single-ply material of claim 20.

Thus, Applicants respectfully request the withdrawal of this 35 U.S.C. § 102(b) rejection.

Claims 1-3, 5, 6, 11, 12, 14, 15 and 20 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,751,784 to Petker.

Claim 1 has been amended herein to more clearly recite that “said first side has a pile and said second side has hooks opposite substantially everywhere said first side has pile.” The Petker reference discloses one whole side of a slipper having pile material but only a small patch of hook material separately secured to the side opposite the pile material only in one location and not “opposite substantially everywhere” there is pile on the first side. Thus, the Petker reference does not anticipate the footwear of claim 1.

The Petker reference also does not disclose the invention of claim 11, which recites “a vamp and at least one vamp strap.” The Petker reference does not disclose a vamp strap extending from a vamp. In fact, the Petker reference does not disclose a vamp at all. Instead, only the strap itself extends from the underfoot portion of the slipper to and attached on top of the foot. The strap is not distinguishable from a vamp. Thus, the Petker reference, which does not disclose a vamp, or an upper at all for that matter, does not anticipate the footwear of claim 11, which recites an upper having a vamp and a vamp strap as separate features.

Claim 20 has been amended herein to incorporate the features of claim 37, i.e., that the hook and pile material is single-ply. The Petker reference discloses that the hook material is “secured to the precut blank or affixed by the customer thereto.” Col. 3, lines 8-11. Thus, the hook material is separately secured to the slipper causing added bulk than would a single-ply material. Further, Fig. 4 of Petker shows a single-ply

material of the straps, as well as the rest of the slipper, to which the hook material is attached, thus creating at least a two-ply material, where the hook material is attached.

In light of these amendments and the remarks provided above, Applicants respectfully request the withdrawal of this 35 U.S.C. § 102(b) rejection.

Rejections under 35 U.S.C. § 103

Claims 1-5, 8, 11-14, 17, 20 and 24 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,969,277 to Williams in view of the Petker reference. Claims 1-5, 1-14, 20 and 24 are also rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,486,965 to Friton in view of the Petker reference. Further, claims 1-3, 5, 6, 11, 12, 14, 15, 20 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,114,297 to Famolare, Jr. in view of the Petker reference.

The combination of any of the Williams, Friton, or the Famolare references and the Petker reference does not disclose all the features of claim 1. In particular, none of these references disclose that “said first side has a pile and said second side has hooks opposite substantially everywhere said first side has pile.”

The Williams reference shows a first strap 43 having a hook material and a second strap 55 having a pile material. Similarly, the Friton reference discloses a strap 24 having a pile piece 25 attached thereto and an upper 14 having a hook piece 38 attached thereto. The Famolare reference discloses a strap 16 with a piece of hook material 18 attached and an upper 11 with a piece of pile material 20 attached. However,

none of these references disclose a material with hook on one side “opposite substantially everywhere” there is pile material on the other side. In fact, they do not teach a material having hook material opposite pile material anywhere.

As discussed above, the Petker reference does not disclose the deficiencies of the Williams, Friton or Famolare references, because the Petker reference also does not disclose hook material “opposite substantially everywhere” there is pile material.

The combination of the Williams, Friton or Famolare references and the Petker reference does not disclose all the features of claim 11. In particular, claim 11 recites, “at least a portion of one of said medial and said lateral sides of said vamp and a portion of said at least one vamp strap are formed from a material with a first side and a second side, said first side having a plurality of hooks and said second side having a pile.”

The Williams reference does not disclose such a feature. Instead, it discloses a shoe with only a hook material on one of lateral or medial forefoot portion 43 and only a pile material on the other of medial or lateral forefoot portions 55, but does not disclose a vamp portion or a vamp strap having hook on one side and pile on the other side, let alone both. Similarly, the Friton reference includes straps 24 with a small piece of pile 25 and an upper 14 with small pieces of pile 38. However, neither the upper nor the straps have hook on one side and pile on the other side. The Famolare reference also does not disclose this feature. Instead, it discloses only a strap 16 with one piece of hook material 18 thereon and one piece of pile material 20 only on the upper 11. Thus, it too does not disclose a vamp or vamp strap with hook on one side and pile on the other.

Further, the Petker reference does not disclose the deficiencies of the Williams, Friton or Famolare references, because, first, as discussed above, it does not disclose a

vamp at all but merely a strap extending from the “sole” of the slipper. Second, the Petker reference does not disclose both a vamp and a vamp strap having hook on one side and pile on the other side.

Claim 20 as amended recites that the hook and pile material is single-ply. The Williams reference indicates that the various hook and pile pieces may be “secured . . . in any manner now apparent to those skilled in the art such as by being stitched thereto.” Col. 3, lines 42-47. Thus, the Williams reference discloses that the upper and the hook and/or pile portions constitute at least a two-ply material where they are attached.

Similarly, the Friton reference discloses “a strip of pile material 25 sewn to the side [of the securing tabs 34] facing the upper 14” and that the hook material 38 is “[s]ecured to the upper 14.” Col. 4, lines 10-13. Thus, the tabs 34 and the strip of pile 25 and/or the upper 14 and the hook material 38 each require at least two plies of material, not a single-ply as claimed in claim 20.

Also, the Famolare reference discloses “a hooked strap of ‘Velcro’ tape 18 secured to the inner surface of the cinching strap 16, and a cooperating looped anchoring strip of ‘Velcro’ tape 20 fixed on the opposite side surface of upper 11.” Col. 2, lines 12-16. Since the “Velcro” tape is an additional ply of material to either the upper 11 or the cinching strap 16, the Famolare reference does not disclose a single-ply material.

The Petker reference does not disclose the deficiencies of the Williams, Friton or Famolare references. In particular and as discussed above, the Petker reference discloses that the hook material is “secured to the precut blank or affixed by the customer thereto.” Col. 3, lines 8-11. Thus, the hook material is separately secured to the slipper creating at least a two-ply material with additional bulk than would a single-ply material.

Further, the additional rejected claims are patentable by virtue of depending from claims 1, 11 or 20, which are patentable over the art of reference, as discussed above. In light of these amendments and the remarks above, Applicants respectfully request the withdrawal of these 35 U.S.C. § 103(a) rejections.

Claims 10 and 19 are rejected under 35 U.S.C. § 103(a) as being obvious over the Williams and Petker references in view of U.S. Patent No. 5,744,080 to Kennedy. Applicants submit that claims 10 and 19, depending from claims 1 and 11, respectively are patentable by virtue that they depend from patentable claims as discussed above. Therefore, Applicants respectfully request the withdrawal of this 35 U.S.C. § 103(a) rejection.

With respect to claim 20, however, which now incorporates claim 37 and includes the feature of a single-ply material, similar to that of claim 10 and 19, Applicants pre-emptively submit that there is no motivation to combine the Kennedy reference with either of the Williams or Petker reference, or any other reference of record in this application.

First, the Kennedy reference is directed towards a method and process for making a single-ply material and not the single-ply material itself. Second, the Kennedy reference does not mention, describe or suggest anywhere in the specification any particular use for the invention. In fact, the Kennedy reference provides no motivation at all for using the single-ply material as a conventional fabric as is suggested by the present claims or for an article of clothing or specifically for footwear. The mere existence of a single-ply material does not alone suggest that it would be obvious or at all suitable to use that particular material for clothing and/or footwear. Thus, one skilled in the art

would not be moved to use a material having hook on one side and pile on the other particularly for use in an article of clothing and/or footwear, unless having reviewed the specification provide by Applicants. Therefore, Applicants submit that claim 20 is patentable in view of the Kennedy reference alone or in combination with any of the references provided by the Examiner.

Claims 9 and 18 are rejected under 35 U.S.C. § 103(a) as being obvious over the Williams and Petker references in view of U.S. Patent No. 5,176,624 to Kuehnreich. Applicants submit that claims 9 and 18, depending from claims 1 and 11, respectively are patentable by virtue that they depend from patentable claims, as discussed above. Therefore, Applicants respectfully request the withdrawal of this 35 U.S.C. § 103(a) rejection.

Other Matters

Applicants respectfully submit that claim 20 is generic to all species (I-IV) defined by the Examiner in the Election Requirement dated May 22, 2002. Further, claims 1-6, 8-15 and 17-19 are generic to all sub-species (A-D) defined by the Examiner in the Election Requirement dated May 22, 2002. Thus, upon allowance of one or more of these generic claims, Applicants respectfully request consideration of these claims as directed to the non-elected species and sub-species. Applicants assert the right to claim additional species in the event that a generic claim thereto is found to be allowable in accordance with 37 C.F.R. § 1.141(a).

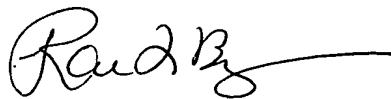
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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